(iii) All arbitrators shall not be employees of the tax authorities of the Contracting States, nor have had dealt with the case presented pursuant to paragraph 1 of Article 24 of the Convention in any capacity. The third arbitrator shall not be a national of either Contracting State, nor have had his or her usual place of residence in either Contracting State, nor have been employed by either Contracting State.

(iv) The competent authorities shall ensure that all arbitrators and their staff agree, in statements sent to each competent authority, prior to their acting in an arbitration proceeding, to abide by and be subject to the same confidentiality and non-disclosure obligations described in paragraph 2 of Article 25 of the Convention and under the applicable domestic laws of the Contracting States.

(v) Each competent authority shall bear the cost of its appointed arbitrator and its own expenses. The cost of the chair of an arbitration panel and other expenses associated with the conduct of the proceedings shall be borne by the competent authorities in equal shares.

c) The competent authorities shall provide the information necessary for the arbitration decision to all arbitrators and their staff without undue delay.

d) An arbitration decision shall be treated as follows:

(i) An arbitration decision has no formal precedential value.

(ii) An arbitration decision shall be final, unless that decision is found to be unenforceable by the courts of one of the Contracting States due to a violation of paragraph 5 of Article 24 of the Convention, of this paragraph or of any procedural rule determined in accordance with subparagraph a) of this paragraph that may reasonably have affected the decision. If the decision is found to be unenforceable due to the violation, the decision shall be considered not to have been made.

e) Where, at any time after a request for arbitration has been made and before the arbitration panel has delivered a decision to the competent authorities and the person who made the request for arbitration, the competent authorities have solved all the unresolved issues submitted to the arbitration, the case shall be considered as solved pursuant to paragraph 2 of Article 24 of the Convention and no arbitration decision shall be provided.

14. With reference to paragraph 5 of Article 25 of the Convention, a Contracting State may decline to supply information relating to confidential communications between attorneys, solicitors or other admitted legal representatives in their role as such and their clients to the extent that the communications are protected from disclosure under the domestic law of that Contracting State.

IN WITNESS WHEREOF the undersigned, being duly authorised thereto by their respective Governments, have signed this Protocol.

DONE in duplicate at Lisbon this nineteenth day of December, 2011, in the Japanese, Portuguese and English languages, all texts being equally authentic. In case of any divergence of interpretation of the text of this Protocol, the English text shall prevail.

FOR JAPAN:

四宮信隆

FOR THE PORTUGUESE REPUBLIC:

Paulo Núncio